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6-21-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REQUEST FOR FILING (RULE 53(b)(1))

(DO NOT USE FOR CIPs)

Commissioner for Patents
Washington, D.C. 20231

JC8872 U.S. PTO
09/09/885816
06/19/01

Customer #26619

Sir:

Please file a Continuation Divisional application under 37 CFR 1.53(b)(1) of pending prior application of

Inventor: **Klein et al.**

App No: **09/193,834**

Filed: **11/17/98**

Title: **Methods of Creating Constructs Useful for
Introducing Sequences into Embryonic
Stem Cells**

Group Art Unit: **1632**
Examiner: **Paras Jr., P.**
Deposit Account No. **50-1271**
Docket/Order No. **MES-01-CON**
Parent Docket No. **MES-01-DIV**
Date: **June 19, 2001**

1. To effect the above-requested filing today, enclosed is a copy of the prior application including:

a. 43 Pages of the specification, claims and abstract
b. 10 Sheets of informal / formal drawings
c. Copy of signed declaration or oath as originally filed in prior application enclosed
d. No Declaration or fee is enclosed; this is a filing under Rule 53(f).

2. Prior application is assigned to **DELTAGEN, INC.** by Assignment recorded **02/08/99** at Reel/Frame **9749/0379**.

3. Enclosed is an Assignment and cover sheet. Return recorded Assignment to the undersigned. (Assignments in parent must be refiled with new cover sheets if they are to be recorded in this continuing application.)

4. The power of attorney in the prior application is to **DELTAGEN, INC.**, whose current address is below.

5. Address all future communications to **DELTAGEN, INC., 1003 Hamilton Avenue, Menlo Park, CA 94025**.

6. Amend the specification by inserting before the first line:--This is a continuation division of Application No. **09/193,834** filed **11/17/98**--

7. It has been determined that this continuing application is entitled to small entity status.

8. Petition to extend the life of the above prior application to at least the date hereof
 is being concurrently filed in that prior application.
 was previously filed in that prior application.
 is not necessary for co-pendency.

9. **IDS:** Enclosed is Form PTO-1449 listing all documents cited by Applicant and the PTO in the parent application/s relied on under 35 USC 120 and referred to above. Per Rule 98(d) copies of those documents are not required now. Please consider those documents and advise that they have been considered in this new application by returning a copy of the enclosed Form PTO-1449 with the Examiner's initials in the left column per MPEP 609.

10. Enclosed is a Rule 103(a) Petition to Suspend Action.

11. Preliminary Amendment to be entered before fee calculation: (Do not amend here except to correct improper multiple dependencies or to cancel whole claims). **Please cancel claims 1-50.**

12. Submission of **Sequence Listing** in accordance with 37 C.F.R. §§ 1.821-1.825.
 Paper Copy;
 Computer Readable Copy – Located in Parent Application 09/193,834, Filed 11/17/98; and
 Statement verifying **Paper** and **Computer Readable Copy** are identical.

FILING FEE: The following filing fee is based on claims as filed and changed by preliminary amendment in item 11:

13. Basic Filing Fee.....		\$ 345.	\$ 345.00
14. Total Claims:	minus 20 =	x 9. =	+ .00
15. Independent Claims:	minus 3 =	x 39. =	+ .00
16. Multiple dependent claim:		+ 135. =	+ .00
TOTAL FILING FEE =			\$ 345.00
17. If petition box is checked, add fee		+ 65.	.00
18. If "assignment" box is checked, add recording fee		+ 40.	+ 40.00
19. TOTAL FEE: (carry forward to Item 24)			\$ 390.00

20. The enclosed Preliminary Amendment is to be entered after assigning Serial Number.

ADDITIONAL FEE CALCULATION FOR PRELIMINARY AMENDMENT:

	Remaining claims after amendment	# of claims previously paid for	Present Extra		Additional fee
21. Total Claims:	32	minus 20 =	15	x 9. =	+ 135.00
22. Independent Claims:	5	minus 3 =	2	x 39. =	+ 78.00
23. If amendment adds multiple dependent claim for the first time:			+ 135. =	+ .00	
ADDITIONAL FEE =					\$ 213.00
24. Plus fee from item 18:					390.00
25. TOTAL FEE Charge Deposit Account #50-1271 <input checked="" type="checkbox"/> OR Check enclosed					\$ 603.00

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any missing or insufficient fees, or credit any overpayment, to our Deposit Account/Order No. above, for which purpose a duplicate copy of this sheet is enclosed.

DELTAGEN, INC.

By Mariette A. Lapi
 MARIETTE A. LAPIZ, Reg. No. 44,202

Express Mail Label:
 Date of Deposit:

EL 920946075 US
 June 19, 2001

I certify that this paper and listed enclosures are being deposited with the U.S. Post Office "Express Mail Post Office to Addressee" under 35 CFR 1.10 on the above date, addressed to Commissioner for Patents, Box Patent Application, Washington, D.C. 20231

JOYCE YOGEL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Klein *et al.*

Group Art Unit: Unassigned

Serial No.: Unassigned

Examiner: Unassigned

Filed: Herewith

Attorney Docket: MES-01-CON

For: METHODS OF CREATING CONSTRUCTS USEFUL FOR INTRODUCING
SEQUENCES INTO EMBRYONIC STEM CELLS

**STATEMENT TO SUPPORT FILING AND SUBMISSION OF
SEQUENCE LISTINGS IN ACCORDANCE WITH 37 C.F.R. §§ 1.821-1.825**

Commissioner for Patents
BOX PATENT APPLICATION
Washington, D.C. 20231

Sir:

The undersigned hereby states that the paper copy of the **Sequence Listing** for the above-noted new continuation application is identical to the Computer Readable Copy of the **Sequence Listing** filed in parent application U.S.S.N. 09/193,834 on November 17, 1998. In accordance with 37 C.F.R. §§ 1.821-1.825, please use the only Computer Readable Form filed in that application as the Computer Readable Form for the subject application. It is understood that the U.S. Patent and Trademark Office will make the necessary change in the application serial number and filing date for the instant application. A paper copy of the **Sequence Listing** is attached hereto for incorporation into the specification of the instant application.

Respectfully submitted,
DELTAGEN, INC.

06/19/01
Date


Mariette A. Lapiz
Reg. No. 44,202